

From: Kevin Price
To: Microsoft ATR
Date: 1/25/02 9:38am
Subject: Microsoft Settlement Comments

My views:

The two parties (Microsoft and the US Government) are playing two different games. Microsoft's definition of success is 'business growth'. The Government's definition of success is 'fair marketplace'. Because there are different goals, there will always be conflict.

But overriding this entire dispute is the principle that the good of the whole (the Government) should take precedence over the good of the individual (Microsoft, in this instance).

Microsoft has the willingness to succeed and the ability. That 'ability' can be via producing excellent products (which they do) or, given their decided monopoly power, by strong-arming business members within the industry (which they also do). It is this second 'ability' which the Government needs to focus on addressing.

The Government has both the willingness and the ability to succeed (i.e., achieve a fair marketplace). To do so, the Government must focus on developing (1) sanctions to prevent future anti-competitive behavior from Microsoft and (2) penalties for Microsoft's past behavior.

IMPORTANT: (2) above (i.e., penalties) MUST be sufficient as to act as a deterrent for (1) above (i.e., to prevent future anti-competitive behavior).

NET: In my view, the Government has substantially weakened its position by agreeing to 'penalties' which even the courts believe are not sufficient (let alone the injured participants). And 9 states also don't buy the proposed 'agreement'. (That school proposal from Microsoft was a JOKE!!!! Steve Jobs was absolutely right in his views.)

What to do: The Government needs to rethink its position and do a MUCH better job developing MUCH more severe penalties. The 'sanctions' are fine (though they will require monitoring and enforcement resources). But the 'penalties' is where future anti-competitive behavior can really be prevented. The answer clearly lies between a company breakup and the weak penalties 'agreed to'. My advice to the Government is: Be significantly more aggressive and let the courts sort out the disagreements. The Government has taken it all this far...the Government needs to keep the pressure on until the end for the good of the whole.

Kevin Price

Fairfield, CT
203-256-1100